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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

RUSH, KAREEN KAY

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/579,955	Applicant(s) BEDON, JEAN-FRANCOIS	
	Examiner KAREEN RUSH	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/3/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to newly added claims 12-31 have been considered but are moot in view of the new ground(s) of rejection. Longo teaches the structure of the newly added claims 12-31, please refer to the below rejected claims 12-31.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-19, 22-25 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Longo (US4993611).

Regarding claim 12, Longo teaches an apparatus (Fig. 2) removably attached to a substantially cylindrical container (Fig. 1 at 4) for liquid material. The apparatus comprises a means adapted to adopt a substantially elongated configuration. The means is an agitator (the means can be shaken). The apparatus comprises a means adapted to adopt a substantially plane configuration (Fig. 1 at 22 and Fig. 2 at 22). Each of the means is attached to the container. Both of the means can be removed from the container. When each of the means is attached to the container, each is in a configuration substantially along a circumference of the container (when the means is placed onto the

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container in the flattened fashion shown in Fig. 2, then it will be along the circumference of the container, shown in the below annotated Fig. 1 at “circumference” and shown at “along the circumference”). The apparatus permits stacking of a like container having a like attached apparatus (the apparatus is attached to the container in such a way that does not hinder the stacking of another container).

Regarding claim 13, the reference as applied to claim 12 teaches the apparatus. The container comprises a bottom (the base the container rests on) and a wall (Fig. 1 at 4) extending from the bottom and terminating in a rim (in the below annotated Fig. 1) that defines a cylindrical opening (in the below annotated Fig. 1).

Regarding claim 14, the reference as applied to claim 12 teaches the apparatus. The means adapted to adopt a substantially elongated configuration is formed from a plastic material (column 2, line 54) and presents a closed cross-section (Fig. 2 at 10).

Regarding claim 15, the reference as applied to claim 14 teaches the apparatus. The means adapted to adopt a substantially elongated configuration is pre-stressed to present a C-shaped cross section (Fig. 1 at 14).

Regarding claim 16, the reference as applied to claim 12 teaches the apparatus. The means adapted to adopt a substantially plane configuration is formed from a sheet of plastic material (column 3, paragraph 2).

Regarding claim 17, the reference as applied to claim 12 teaches the apparatus. The means adapted to adopt a elongated configuration includes a locking means (Fig. 1 at 10 and 12).

Regarding claim 18, the reference as applied to claim 12 teaches the apparatus. The means adapted to adopt a elongated configuration is engaged with a locking means (Fig. 1 at 10 and 12).

Regarding claim 19, the reference as applied to claim 12 teaches the apparatus. The means adapted to adopt a substantially elongated configuration includes hooks (Fig. 1 at 10 and 12 are curved configurations that “attach” or hooks onto each other).

Regarding claim 23, the reference as applied to claim 12 teaches the apparatus. The means adapted to adopt a plan configuration presents a shape corresponding to the container (member 28 takes on a circular shape corresponding to the container, and member 26 takes on a longitudinal shape of the container).

Regarding claim 24, the reference as applied to claim 12 teaches the apparatus. The means adapted to adopt a plan configuration is pre-stressed to present a shape corresponding to the container (member 28 takes on a circular shape corresponding to the container, and member 26 takes on a longitudinal shape of the container).

Regarding claim 25, the reference as applied to claim 12 teaches the apparatus. The liquid container is in the shape of a cylindrical cup (Fig. 1 at 4).

Regarding claim 28, the reference as applied to claim 25 teaches the apparatus. The means adapted to adopt a substantially elongated configuration is attached to an upper edge of the container (the apparatus in Fig. 2 is attached to the upper edge of the container because it is attached to the container).

Regarding claim 29, the reference as applied to claim 25 teaches the apparatus. The means adapted to adopt a substantially plane configuration is attached to an upper edge of the container (the apparatus in Fig. 2 is attached to the upper edge of the container because it is attached to the container).

Regarding claim 30, the reference as applied to claim 28 teaches the apparatus. The means adapted to adopt a substantially plane configuration is attached to an upper edge of the container (the apparatus in Fig. 2 is attached to the upper edge of the container because it is attached to the container).

Regarding claim 31, Longo teaches an apparatus (Fig. 2) for a cylindrical container (Fig. 1 at 4) for liquid. The container comprises a bottom (the base the container rests on) and a wall (Fig. 1 at 4) extending from the bottom that defines a cylindrical opening (in the below annotated Fig. 1). A straw (member 14 is shaped as a straw) is removably attached to the container along a circumference of the container (when the straw is placed onto the container in the flattened fashion shown in Fig. 2, then it will be along the circumference of the container, shown in the below annotated Fig. 1 at "circumference" and shown at "along the circumference"). The straw has an elongated configuration (Fig. 1 at 14). A protective sheet (Fig. 2 at 22) is attached to the container. The protective sheet

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is along the circumference of the container (when the protective sheet is placed onto the container in the flattened fashion shown in Fig. 2, then it will be along the circumference of the container, shown in the below annotated Fig. 1 at "circumference" and shown at "along the circumference"). The protective sheet has a plane configuration (Fig. 2 at 22). Each of the straw and the sheet are attached to the container. Both of the straw and the sheet can be removed from the container. When each of the straw and the sheet are attached to the container, each is in a configuration substantially along a circumference of the container (when the straw and the sheet are placed onto the container in the flattened fashion shown in Fig. 2, then it will be along the circumference of the container, shown in the below annotated Fig. 1 at "circumference" and shown at "along the circumference"). The apparatus permits stacking of a like container having a like attached apparatus (the apparatus is attached to the container in such a way that does not hinder the stacking of another container).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Longo (US4993611) in view of Chilcoate (US3826409).

Regarding claim 20, the reference as applied to claim 12 teaches the apparatus. The Longo reference DIFFERS in that it does not specifically disclose the means adapted to adopt a substantially elongated configuration includes a deformable section, as claimed. Attention, however, is directed to Chilcoate, which discloses a tube having a deformable section (Fig. 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Longo by employing a deformable section, in view of the teachings of Chilcoate, in order to employ an old and well known structure that is used to elongate a member, and in order to comply with the Longo reference which discloses the desire for member 14 to be "adjustable"(Longo, Abstract).

Regarding claim 21, the reference as applied to claim 20 teaches the apparatus. The deformable section includes an accordion-like structure (Chilcoate, Fig. 2).

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Longo (US4993611) in view of Gale (US6364151).

Regarding claim 22, the reference as applied to claim 12 teaches the apparatus. The Longo reference DIFFERS in that it does not specifically disclose that the means adapted to adopt a substantially plan configuration includes an information support, as claimed. Attention, however, is directed to Gale, which discloses a device (Fig. 2 at 29) with an information medium (Fig. 2 at 81). Therefore, it would have been obvious to one of ordinary skill in the art at

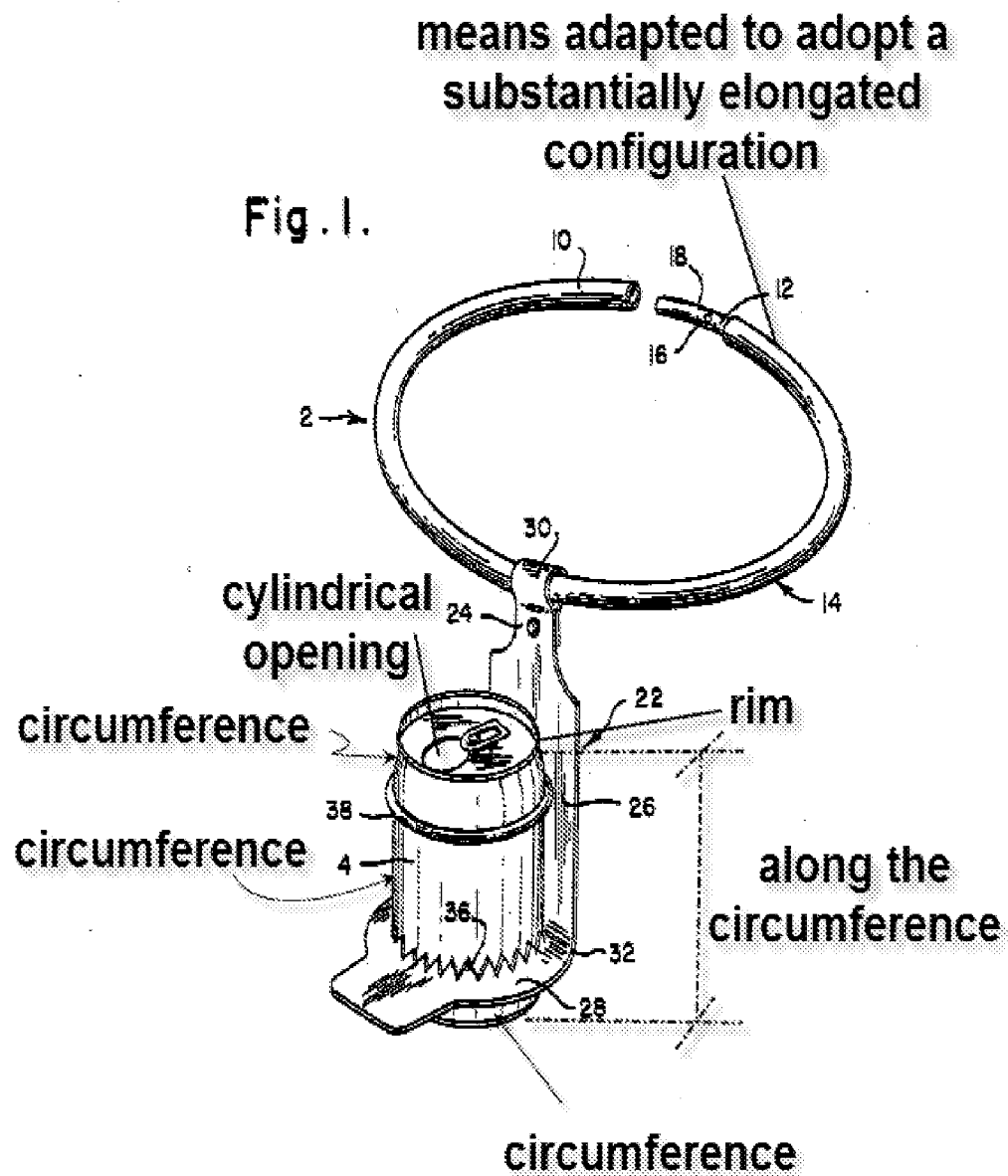
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the time the invention was made to have modified Longo by employing the substantially plane configuration with an information medium, in view of the teachings of Gale, in order to show the logo for the device.

6. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Longo (US4993611) in view of Evans (US6047852).

Regarding claim 26, the reference as applied to claim 25 teaches the apparatus. The Longo reference DIFFERS in that it does not specifically disclose the container is formed from a material identical to the material of at least a portion of the apparatus (plastic), as claimed. Attention, however, is directed to Evans, which discloses a plastic container (Fig. 1 at 12) is old and well known. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Longo by employing a plastic container, in view of the teachings of Evans in order to allow the device to be used with different containers formed from a variety of materials.

Regarding claim 27, the reference as applied to claim 26 teaches the apparatus. The container and apparatus are formed as a single piece (this occurs when member 22 is attached to the container, then they are considered to be integral or one piece).



Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Reeves reference discloses a practical device. The Barnes reference discloses a practical device. The Roe reference discloses a practical device. The Evans reference discloses a practical device. The Izraelev reference discloses a practical device. The Morris reference discloses a practical device. The Whitaker reference discloses a practical device. The Evans reference discloses a practical device. The Chang reference discloses a practical device.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREEN RUSH whose telephone number is (571)270-5611. The examiner can normally be reached on Monday-Friday (8:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

K.R.
AU:3781

/Ehud Gartenberg/
Supervisory Patent Examiner, Art Unit 3728